

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Red Spectrum, LLC)	
)	
Petition for Designation as an Eligible)	WC Docket 09-197
Telecommunications Carrier Pursuant to Section)	
214(e)(6) of the Telecommunications Act of 1996)	

**PETITION OF RED SPECTRUM LLC FOR DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER**

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Dated: September 12, 2018

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EXECUTIVE SUMMARY

Red Spectrum, LLC, a Tribal-government facilities-based telecommunications and broadband carrier, hereby applies for designation as an Eligible Telecommunications Carrier for a service area coterminous with the existing rural study areas within the external boundaries of the Coeur d'Alene Reservation (Benewah and Kootenai Counties, Idaho). Red Spectrum is a winning bidder in Auction 903, and as such is required to acquire ETC status within 180 days of award. Red Spectrum therefore requests expedited treatment of this ETC Petition.

The Commission has jurisdiction over this application pursuant to Section 214(e)(6) of the Communications Act since Red Spectrum is a Tribal-government owned and regulated company and the state of Idaho has concluded that it has no jurisdiction over Red Spectrum's activities on the Coeur d'Alene reservation. The Commission has previously recognized this lack of state jurisdiction by designating several other tribally owned carriers as ETCs.

Red Spectrum will offer all of the services supported by the universal service fund over its own wireline and fixed wireless network facilities. It will undertake an extensive outreach program to ensure that all subscribers are aware of the Lifeline program for low income customers. Red Spectrum will also meet the additional eligibility criteria for ETC designation adopted by the Commission. Red Spectrum will be able to remain functional in emergency situations, will provide consumer protection in accordance with industry standards and will provide local usage and equal access. The company certifies that it will use support for the provision, maintenance, and upgrading of facilities and services for which it is intended.

Grant of this application will serve the public interest because it will result in improved and ubiquitous wireless telecommunications service for residents of the Coeur d'Alene Reservation, will promote local economic development, and will also support a viable, high technology enterprise owned and controlled by the Coeur d'Alene Tribe.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
Red Spectrum, LLC)	
)	
Petition for Waiver of the Definition of)	CC Docket No. 96045
"Study Area" Contained in Part 36, Appendix-)	
Glossary of the Commission's Rules)	
)	
Petition for Designation as an Eligible)	WC Docket 09-197
Telecommunications Carrier Pursuant to Section)	
214(e)(6) of the Telecommunications Act of 1996)	

**PETITION OF RED SPECTRUM LLC FOR DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER AND
REQUEST FOR EXPEDITED PROCESSING**

I. INTRODUCTION

Red Spectrum, LLC ("Red Spectrum"), a 100% Tribal-government owned wireline carrier of the Coeur d'Alene Tribe (CDA), respectfully petitions the Commission for designation as an Eligible Telecommunications Carrier ("ETC") pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended,¹ within the exterior boundaries of the Coeur d'Alene Reservation ("Reservation"). Red Spectrum is owned and chartered by the government of the Coeur d'Alene Tribe and is authorized to provide telecommunications and broadband services within the exterior boundaries of the Reservation.²

¹ See 47 U.S.C. § 214(e) ("Provision of Universal Service"); as amended (pub. L. No. 105-125, 1997).

² See Exhibit 1 (map of Coeur d'Alene Reservation).

Red Spectrum is a winning bidder in the Connect America Fund Phase II Auction (Auction 903), concluded on August 21, 2018.³ Winning bidders must receive an ETC designation within 180 days after being announced as a winning bidder, or face an auction forfeiture.⁴ For this reason, Red Spectrum seeks expedited processing of this ETC Petition.

The *Twelfth Report and Order*⁵ concluded that a carrier seeking designation of eligibility to receive federal universal service support for telecommunications service offered on tribal lands may petition the Commission for designation under section 214(e)(6) without first seeking designation from the state commission.⁶ The Commission has further concluded that where a Tribally-owned carrier seeks ETC designation throughout its recognized reservation, no redefinition of service areas is required.⁷

The Coeur d'Alene Tribe is a federally recognized Indian tribe. The Reservation boundaries define Red Spectrum's service area. Red Spectrum is subject to the regulatory authority and jurisdiction of the Coeur d'Alene Tribe. Red Spectrum is not subject to the jurisdiction of the State of Idaho, as demonstrated by Exhibit 2 (Letter from Idaho Assistant Attorney General). Red Spectrum requests that it be designated as eligible to receive all

³ See FCC News Release, August 28, 2018 and <https://www.fcc.gov/reports-research/maps/caf2-auction903-results/>. Red Spectrum is to receive \$521,715 to support build-out to 185 locations. Red Spectrum will receive CAF Phase II support in the following census block group: the Census Block Group ID: 160099400001.

⁴ See *Public Notice* FCC 18-6, released February 1, 2018, ¶ 310.

⁵ *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 12208 (2000) ("*Twelfth Report and Order*").

⁶ *Twelfth Report and Order*, 15 FCC Rcd 12208, 12265-69, ¶¶ 115-27 (2000). In the *Twelfth Report and Order* the Commission noted that the legislative history of section 214(e)(6) makes clear that the class of carriers covered by this provision is "dominated by tribally owned carriers," although not limited to these. *Id.* at 12261, ¶106.

⁷ *Standing Rock Telecommunications, Inc. Petition for Designation as an Eligible Telecommunications Carrier, Memorandum Opinion and Order on Reconsideration*, 26 FCC Rcd 9160, 1123 (2011) ("*Standing Rock II*").

available support from the federal Universal Service Fund (USF) including, but not limited to, CAF Phase II support and to low-income customers (Lifeline).

Red Spectrum serves the public interest by promoting competition and the provision of new technologies to the Coeur d'Alene Reservation which suffers from significant impediments to affordable, competitive telecommunications services. Ubiquitous service penetration is critical to providing high quality of service essential to securing customers to support the Red Spectrum infrastructure investment.

Red Spectrum has been actively building out its telecommunications plant for the past ten (10) years and completed its \$10.8 million BIP/ARRA grant/loan buildout in 2015.⁸ The current infrastructure includes 121 route miles of fiber and eleven communication towers / relay points.⁹ Voice services are provided through a class 5 carrier-grade soft switch connected to the Public Switched Telephone Network (PSTN). Broadband services are provided through core routers and switches connected to the Internet through two upstream providers for redundancy.

As demonstrated herein, expeditious action in granting this Petition will allow the Company to access USF support while assuring that the subscribers they serve receive the benefits of quality telecommunications and broadband services at reasonable rates. The Petitioner operates in a rural and remote area and is eligible to receive cost recovery from mechanisms established to foster universal service.

⁸ USDA RUS BIP ID 1103-A40.

⁹ See *Exhibit 3* for a current map of the Red Spectrum build-out.

II. **RED SPECTRUM SATISFIES ALL OF THE STATUTORY AND REGULATORY PREREQUISITES FOR DESIGNATION AS AN ETC**

Red Spectrum satisfies each of the elements required for ETC designation by the FCC pursuant to section 214(e)(6) set forth in the FCC's *Section 214(e)(6) Public Notice*.¹⁰ Red Spectrum's system is designed based on state-of-the-art industry standards. The supported services are designed to meet all Universal Service Funding requirements. Red Spectrum is a full service carrier that will offer all Universal Service supported services; and satisfies all of the statutory and regulatory requirements for designation as an ETC.

A. Because Red Spectrum is a Tribal Government Owned Company, and is Regulated by the Coeur d'Alene Tribe, it is not Subject to the Jurisdiction of the Idaho Public Utilities Commission

Non-tribally owned telecommunications carriers are typically subject to state commission jurisdiction, and state responsibility for designating eligible telecommunications carriers and service areas for such carriers. Section 214(e)(6) of the Communications Act, however, provides that in the case of a common carrier that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of Section 214(e)(1) as an eligible telecommunications carrier for a service area designated by the Commission.

In the *Twelfth Report and Order*, the Commission established a framework for the ETC designation process under Section 214(e)(6)¹¹ for carriers serving Tribal lands. The Commission specifically concluded that a carrier seeking ETC designation on Tribal lands may petition the

¹⁰ *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act, Public Notice*, 12 FCC Rcd 22947 (1997) ("*Section 214(e)(6) Public Notice*").

¹¹ "[A] common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State Commission" may apply directly to the Commission for ETC status. *Twelfth Report and Order*, 15 FCC Rcd at 12265 (2000).

Commission directly without first seeking designation from the state commission.¹² The first line of inquiry set out for the Commission is whether the applicant is "subject to the jurisdiction of a state commission." For the numerous reasons set forth below, Red Spectrum is clearly not subject to the jurisdiction of the state of Idaho. Once making the determination that the Commission has jurisdiction, the FCC is then tasked with evaluating the merits of the ETC application.

The Commission has recognized that the legislative history of section 214(e)(6) is clear that one of the primary classes of carriers Congress sought to ensure were covered and protected by this provision were tribally-owned carriers serving tribal lands.¹³ Additionally, the Commission has observed that the "determination of jurisdiction over a carrier serving tribal lands is an inquiry that will extend beyond questions of state law, and will be informed by principles of tribal sovereignty, federal law, and treaties."¹⁴ Therefore, this Petition first discusses relevant Tribal law and Treaties.

First, under the Coeur d'Alene Constitution, the Tribe has jurisdiction over "all lands within the original confines of the Coeur d'Alene Reservation as established by Executive Orders of June 14, 1867, and November 8, 1873, and shall extend to such other lands as may be hereafter added thereto,"¹⁵ and has the right "[t]o exclude from the restricted lands of the reservation persons not legally entitled to reside thereon under ordinances."¹⁶

By CDA Resolution 139 (2015), appended here as Exhibit 5, the Coeur d'Alene Tribal Council authorized the creation of Red Spectrum, LLC under Chapter 53 of the Coeur d'Alene

¹² *Id.* at ¶ 115.

¹³ *Id.* at ¶ 105.

¹⁴ *Id.* at ¶ 125.

¹⁵ *Constitution of the Coeur d'Alene Tribe*, Article I – Territory, attached hereto as Exhibit 4.

¹⁶ *Id.*, Article VII(f).

Law and Order Code, and authorized Red Spectrum to operate as a common carrier on the Coeur d'Alene reservation.

The office of the Attorney General of Idaho has opined that the state has no jurisdiction over Red Spectrum's activities on the Coeur d'Alene reservation.¹⁷

Based on the fact that Red Spectrum LLC is a wholly owned entity of the Coeur d'Alene Tribe, the PUC does not have jurisdiction to certify Red Spectrum as a CLEC to operate on the Coeur d'Alene Reservation. As a sovereign, the Tribe may exercise its authority to offer members and non-members telecommunications services within the boundaries of the Coeur d'Alene Reservation contingent on FCC authorization.¹⁸

Finally, the Commission's own precedent is very clear with regard to Tribally owned carriers serving Tribal lands. Tribally owned carriers serving Tribal lands are eligible to apply to the Commission for evaluation of their ETC status. The FCC has made this decision in each case in which a fully Tribally owned carrier has applied to the FCC to have their ETC applications considered, such as Standing Rock Telecommunications, Hopi Telecommunications, Fort Mojave Telecommunications, Gila River Telecommunications, San Carlos Telecommunications, and Tohono O'Odham Utility Authority.¹⁹ In each instance listed, the ETC application was approved. Based on

¹⁷ Exhibit 2 (Letter of Donald L. Howell, II, Deputy Attorney General).

¹⁸ *Id.*, pp. 1-2.

¹⁹ *Standing Rock Telecommunications, Inc. Petition for Designation as an Eligible Telecommunications Carrier; Petition of Standing Rock Telecommunications, Inc. to Redefine Rural Service Areas*, WC Docket No. 09-197, *Memorandum Opinion and Order*, 25 FCC Rcd 12388 (WCB 2010) ("Standing Rock I"); *Standing Rock Telecommunications, Inc. Petition for Designation as an Eligible Telecommunications Carrier, Memorandum Opinion and Order on Reconsideration*, 26 FCC Rcd 9160, 1123 (2011) ("Standing Rock II"); *Designation of Hopi Telecommunications, Inc., as an Eligible Telecommunications Carrier for the Hopi Reservation, Memorandum and Order*, CC Docket No. 96-45 (2007). *Designation of Fort Mojave Telecommunications, Inc., Gila River Telecommunications, Inc., San Carlos Telecommunications, Inc., and Tohono O'Odham Utility Authority as Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act, Memorandum Opinion and Order*, 13 FCC Rcd 4547 (1998).

the above, it is clear that Red Spectrum is not “subject to the jurisdiction” of the Idaho PUC and may apply directly to the FCC for a determination of its eligibility as an ETC.

B. Red Spectrum is a Common Carrier

Red Spectrum provides voice communications and broadband to the public, subject to the regulation of the Coeur d’Alene Tribe, and therefore meets the ETC requirement of being a common carrier.

C. Red Spectrum Will Offer All of the Services Supported by the Federal High-Cost Universal Service Program

The FCC has identified the following services and functionalities as the core services to be offered by an ETC and supported by federal universal service support mechanisms:

- (a) Voice grade access to the public switched network;
- (b) Local usage;
- (c) Dual tone multi-frequency signaling or its functional equivalent;
- (d) Single-party service or its functional equivalent;
- (e) Access to emergency services;
- (f) Access to operator services;
- (g) Access to interexchange service;
- (h) Access to directory assistance;
- (i) Toll limitation for qualifying low-income consumers;
- (j) Broadband Internet Access at speeds up to 100 Mbps.²⁰

(a) Voice-grade access to the public switched telephone network. The FCC has concluded that voice-grade access means the bandwidth to make and receive phone calls of a minimum of 300 to 3000 Hertz. Red Spectrum meets this requirement by providing voice-grade access to the public switched telephone network ("PSTN"). Through its interconnection arrangements with Local

²⁰ 47 C.F.R. §54.101(a); *Section 214(e)(6) Public Notice*, at 22948.

Exchange Carriers ("LECs"), all customers of Red Spectrum will be able to make and receive calls on the PSTN within the specified bandwidth.

(b) **Local Usage.** Beyond providing access to the PSTN, an ETC must include local usage as part of a universal service offering. To date, the FCC has not quantified a minimum amount of local usage required to be included in a universal service offering, but has initiated a separate proceeding to address this issue.²¹ Any minimum local usage requirement established by the FCC as a result of the *October 1998 NPRM* will be applicable to all designated ETCs, and Red Spectrum will comply with any and all minimum local usage requirements adopted by the FCC. Red Spectrum will expand the current local usage range in order to cover the entire service area, the exterior boundaries of the Coeur d'Alene Reservation. Red Spectrum will also include local usage plans among its universal service offerings.

(c) **Dual tone multi-frequency ("DTMF") signaling, or its functional equivalent.** DTMF is a method of signaling that facilitates the transportation of call set-up and call detail information. Consistent with the principles of competitive and technological neutrality, the FCC permits carriers to provide signaling that is functionally equivalent to DTMF in satisfaction of this service requirement. Red Spectrum's switch supports DMTF that tones are delivered either in-band or out-of-band via Session Initiation Protocol (SIP) or Real-time Transport Protocol (RTP) signaling messages via RFC2833.

²¹ See *Federal and State Joint Board on Universal Service, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*. 13 FCC Rcd 21252 (1998) ("*October 1998 NPRM*").

(d) Single-party service or its functional equivalent. "Single-party service" means that only one party will be served by a subscriber loop or access line in contrast to a multi-party line.²² Red Spectrum's infrastructure is designed to provide single-party service.

(e) Access to emergency services. The ability to reach a public emergency service provider by dialing 911 is a required service in any universal service offering. Phase I E-911, which includes the capability of providing both automatic numbering information ("ANI") and automatic location information ("ALI"), is only required if a public emergency service provider makes arrangements with the local provider for the delivery of such information. Red Spectrum will provide all of its customers with access to emergency service by dialing 911 in satisfaction of the basic 911 requirement, and either provides or will provide subscribers with Phase I and Phase II E-911 services in accord with the deployment schedules agreed to by Red Spectrum and local or other governmental emergency service provider agencies.

(f) Access to operator services. Access to operator services is defined as any automatic or live assistance provided to a consumer to arrange for the billing or completion, or both, of a telephone call.²³ Red Spectrum has Service Agreements in place with other entities (i.e. LECs; IXC's) to meet this requirement to provide Operator Services.

(g) Access to interexchange service. A universal service provider must offer consumers access to interexchange service to make and receive toll or

²² *First Report and Order*, 12 FCC Rcd at 8810.

²³ *Id.* at 8817-18.

interexchange calls. Equal access, however, is not required. "The FCC do[es] not include equal access to interexchange service among the services supported by universal service mechanisms."²⁴ Red Spectrum presently meets this requirement by providing all of its customers with the ability to make and receive interexchange or toll calls through direct interconnection arrangements the Company has with certain IXC's.

(h) **Access to directory assistance.** The ability to place a call to directory assistance is a required service offering.²⁵ Red Spectrum will meet this requirement by providing all of its customers with access to directory assistance.

(i) **Toll limitation for qualifying low-income consumers.** An ETC must offer either "toll control" or "toll blocking" services to qualifying Lifeline customers at no charge. The FCC no longer requires an ETC to provide both services as part of the toll limitation service required under 47 C.F.R. §54.101(a)(9).²⁶ In particular, all ETCs must provide toll blocking, which allows customers to block the completion of outgoing toll calls.²⁷ Red Spectrum currently has no Lifeline customers because only carriers designated as an ETC can participate in Lifeline. See 47 C.F.R. §§ 54.400-415. Once designated as an ETC, Red Spectrum will participate in Lifeline as required, and will provide toll blocking capability in satisfaction of the FCC's requirement. Red Spectrum currently has the technology and capability to provide toll blocking and will use

²⁴ *Id.* at 8819.

²⁵ *Id.* at 8819.

²⁶ See *Universal Service Fourth Order on Reconsideration* in CC Docket No. 96-45, *Report and Order* in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, 13 FCC Rcd 5318 (1997).

²⁷ *First Report and Order*, at 8821-22.

this technology to provide the service to its Lifeline customers, at no charge, as part of its universal service offerings.

(j) **Broadband Internet Access Service.** Red Spectrum will offer BIAS service with speeds up to 100 Mbps for residential customers.

D. Red Spectrum Will Offer Supported Services through its Own Facilities.

The Commission's *Section 214(e)(6) Public Notice* requires that a carrier requesting designation must certify that it offers the supported services "either using its own facilities or a combination of its own facilities and resale of another carrier's services."²⁸ Red Spectrum will provide the supported services through its own existing network infrastructure, which includes a combination of fiber-to-the-home (FTTH), fixed-wireless, and interconnection facilities that it has deployed to serve its future customers. See Declaration of Valerie Fast Horse, attached as Exhibit 6 hereto.

E. Red Spectrum Will Advertise its Universal Service Offering.

Red Spectrum will advertise the availability of each of the supported services detailed above, throughout its licensed service area, by media of general distribution, in accordance with Section 214(e)(1). The methods of advertising may include local and tribal newspapers, on the Red Spectrum website via the Internet, tribal offices, public benefits offices, electronic newsletters, billing inserts, and public exhibits. Red Spectrum will publicize the availability of supported services to reach all of the residents in its service area, and ensure that customers are aware of the availability of the supported services, particularly, the support to low income customers.

²⁸ *Section 214 Public Notice*, at 22949.

III. RED SPECTRUM REQUESTS DESIGNATION THROUGHOUT ITS SERVICE AREA ON THE COEUR D'ALENE RESERVATION IN BENEWAH AND KOOTENAI COUNTIES, IDAHO

Red Spectrum is a 100% tribal government-owned telecommunications carrier, owned by the Coeur d'Alene Tribe. Red Spectrum is owned and chartered by the government of the Coeur d'Alene Tribe and is authorized to provide services throughout the boundaries of the Coeur d'Alene Tribe's reservation.²⁹

ETC designations are for an entire "service area," which by statute "means a geographic area"³⁰ and therefore the ETC status for the Tribe's telecommunications company should be granted for the Tribe and Red Spectrum's entire service area, which are the boundaries of the Coeur d'Alene Reservation. Red Spectrum's authorized service area covers the following rural telephone companies operating within the boundaries of the Coeur d'Alene Reservation:

Frontier Communications Northwest, Inc., SAC 472416.

IV. GRANTING RED SPECTRUM'S APPLICATION WILL SERVE THE PUBLIC INTEREST

Red Spectrum's ETC designation will serve the public interest by bringing wireline telephone and broadband service to previously unserved areas, increasing consumer choice, improving service quality, enhancing health and safety benefits, and enhancing competition.

Because Red Spectrum is seeking designation in areas served by rural LECs, the Commission must consider public interest factors prior to designating Red Spectrum as

²⁹ See Exhibit 1, map of the Coeur d'Alene reservation.

³⁰ 47 U.S.C. § 241(e)(5).

an ETC.³¹ Designating Red Spectrum as an ETC will further the public interest by bringing the benefits of competition to underserved marketplace in rural and tribal areas located in Idaho.

One of the principal goals of the Telecommunications Act of 1996 was to "promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies."³² Competition drives down prices and promotes the development of advanced communications as carriers vie for a consumer's business.

Service to New Areas.

Prior to Red Spectrum beginning construction of its fixed wireless network in 2005, residents on the Coeur d'Alene Reservation did not have access to broadband. Since 2005, Red Spectrum has upgraded and expanded its network to reach more households on the reservation. In 2015 Red Spectrum completed a fiber-to-the-home project on the Western side of the reservation, with plans to expand to additional portions of the reservation in the future. Receiving ETC is a requirement to receive CAF Phase II funding to extend service to unserved areas on the Coeur d'Alene reservation.

Increased Consumer Choice. ETC designation of Red Spectrum will advance universal service, promote competition and facilitate the provision of advanced communications services to customers within Red Spectrum's service area.

While Frontier offers basic dial-tone on the majority of the reservation, their DSL network reaches approximately 8% of the reservation households. The remaining

³¹ See 47 U.S.C. §214(e)(6).

³² Telecommunications Act of 1996, Public Law, 104-104, 100 Stat. 56 (1996).

households are either unserved, underserved, or served by Red Spectrum or other satellite providers.

Improved Service Quality.

Red Spectrum is able to provide improved services by connecting to the Internet through its 2 Gigabit fiber optic backbone and middle mile network (burstable to 10Gbps), in addition to its redundant microwave link. Red Spectrum provides broadband speeds that range from 3 Mbps to 100 Mbps for residential customers. Additionally, Gigabit services are available for schools, libraries, businesses, and critical facility customers.

For voice customers Red Spectrum will provide enhanced IP based phone services. Red Spectrum will promote and implement the Lifeline and Linkup Universal Service programs to eligible low income households in a culturally and locally relevant manner. Eligible households include those with children in the School Lunch program, the Headstart program, the Temporary Assistance to Needy Families (TANF) Program, and the BIA's General Assistance Program.

Enhanced Health and Safety Benefits. With ETC designation, Red Spectrum will mitigate the health and safety risks associated with living and working in a remote and rural location. Red Spectrum will provide all of its customers with access to emergency service by dialing 911.

V. FIVE YEAR PLAN

Red Spectrum certifies that it will provide service to the locations for which it is awarded support through Auction 903 consistent with the deployment obligations associated with such support.

VI. RED SPECTRUM SATISFIES THE ADDITIONAL REQUIREMENTS OF AN ETC APPLICANT REQUIRED BY THE ETC DESIGNATION ORDER

In the *ETC Designation Order*,³³ the Commission adopted additional requirements for ETC designation proceedings in which the Commission acts under section 214(e)(6) of the Act. The Commission found that an ETC applicant must demonstrate:

- (1) a commitment and ability to provide services, including providing services to all customers within its proposed service area;
- (2) how it will remain functional in emergency situations;
- (3) that it will satisfy consumer protection and service quality standards;
- (4) that it offers local usage comparable to that offered by the incumbent LEC; and
- (5) an understanding that it may be required to provide equal access if all other ETCs in the designated service area relinquish their designations pursuant to Section 214(e)(4) of the Act.

(1) Red Spectrum Will Be Able To Provide Services To All Customers Within Its Service Area

Red Spectrum uses a combination of fiber-to-the-home (FTTH) and fixed-wireless to provide services to customers in the service area. The Tribe constructed a 121 mile fiber optic back bone and middle mile network, and 11 (eleven) communication towers / relay points. Fiber based services are delivered through its FTTH Gigabit Passive Optical Network (GPON), and wireless based services are delivered through a point-to-multipoint network using unlicensed spectrum. The interconnection / backhaul is transmitted through its middle mile fiber to a carrier hotel in Liberty Lake, WA. The system is designed to allow for growth.

Red Spectrum certifies that it will provide service, on a timely basis, to customers within its service area. With ETC designation, Red Spectrum will implement Enhanced Lifeline and Link-up programs, which will offer service to the lowest income customers

³³ *Federal-State Joint Board on Universal Service*. CC Docket No. 96-45, Report and Order, 20 FCC Rcd 6371 (2005) ("*ETC Designation Order*").

that may otherwise not have the ability to afford telecommunication services. The Tribe has issued a Corporate Charter,³⁴ and a Tribal Business License,³⁵ in addition to CDA Resolution 139 which allow Red Spectrum to provide telecommunication services throughout its tribal land area.

(2) Red Spectrum Will Remain Functional In Emergency Situations.

Red Spectrum has established reasonable provisions to meet emergencies resulting from failures of lighting or power service, sudden and prolonged increases in traffic, illness of operators or from fire, storm, or acts of God including provisions for emergency power that meet or exceed the rule requirement to provide:

- A minimum of 8 hours of battery service.
- A permanently installed power unit.
- Mobile power units that can be delivered on short notice and which can be readily connected in offices without installed emergency power facilities

(3) Red Spectrum Will Meet All Consumer Protection And Service Quality Standards.

Red Spectrum will adhere to applicable consumer protection laws.

(4) Red Spectrum Will Offer Comparable Local Usage To That of The Incumbent LEC.

Red Spectrum's service rate plans will be comparable to plans offered by existing incumbent local exchange carriers. The incumbent LEC operating on the Coeur d'Alene Reservation is Frontier Communications.

³⁴ See Exhibit 7.

³⁵ See Exhibit 8.

(5) Red Spectrum Will Provide Equal Access.

Red Spectrum understands that it may be required to provide consumers with equal access to long distance carriers if other eligible telecommunications carriers relinquish their ETC designation pursuant to section 214(e)(4) and no longer provide equal access to areas within the Red Spectrum service area.

VII. ANTI-DRUG ABUSE ACT CERTIFICATION

Red Spectrum certifies that no party to this petition is subject to a denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. §862.³⁶

VIII. HIGH-COST CERTIFICATION

Under Section 54.314(b) of the Commission's rules, rural carriers wishing to obtain high-cost support must either be certified by the appropriate state commission, or where the state commission does not exercise jurisdiction, must self-certify with the FCC and the Universal Service Administrative Company ("USAC") their compliance with Section 254(e) of the Act. As explained above, the State of Idaho does not exercise jurisdiction over Red Spectrum; therefore, in accordance with Section 54.314(b) of the FCC's rules, Red Spectrum makes the following self-certification: Red Spectrum hereby certifies that once designated as an ETC, it will use federal high-cost support for its intended support – the provision, maintenance, and upgrading of facilities serving the area for which the support is intended. Additionally, Red Spectrum hereby certifies that it will provide its VoIP service on a common carrier basis in the areas in which it is designated as an ETC, and thus is a common carrier providing voice telephony service

³⁶ See Exhibit 6.

that is not subject to the jurisdiction of a State commission, as described in Section 214(e)(6). Red Spectrum also certifies that it is eligible to be designated as an ETC and receive universal service funds. Further, Red Spectrum hereby commits to provide the services and functionalities required for designation as an ETC in the areas in which it is designated and will meet all of the FCC's requirements for designation as set forth in this petition. The undersigned has knowledge of the facts stated in this petition and believes these facts are true to the best of the undersigned's knowledge.

IX. CONCLUSION

Red Spectrum, LLC meets the requirements set forth by the Commission to be designated as an Eligible Telecommunications Carrier pursuant to Section 214(e)(6) of the Communications Act. Accordingly, Red Spectrum, respectfully requests that the Commission confirm it as an ETC for the service area described herein.

Respectfully Submitted,

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Dated: September 12, 2018

List of Exhibits

(Uploaded Separately from Petition)

- 1 Map of reservation
- 2 Letter from Donald L. Howell, II, Deputy Attorney General, State of Idaho
- 3 Map of current buildout
- 4 Constitution of the Coeur d'Alene Tribe
- 5 CDA Resolution 139
- 6 Declaration of Valerie Fast Horse
- 7 Red Spectrum Corporate Charter
- 8 Red Spectrum Tribal Business License